

CPJ:cpi

United States District Court
STATE AND DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

Case Number:

V.

ROMAN ERNESTO LUNA-ALMARAZ

11-MJ-514-SER

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about July 16, 2008, in Mower County, in the State and District of Minnesota, defendant(s)

an alien who had previously ben removed from the United States on or about April 27, 2004, subsequent to a conviction for an aggravated felony, namely: Aiding and Abetting the Sale of Cocaine, in the State of Minnesota on or about February 10, 1997, knowingly and unlawfully was found in the United States without obtaining permission from the Attorney General or the Secretary of Homeland Security to re-apply for admission into the United States,

in violation of Title 8, United States Code, Section(s) 1326(a) and (b)(2).

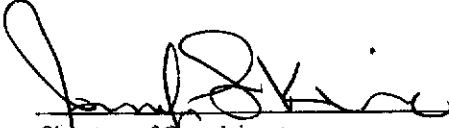
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

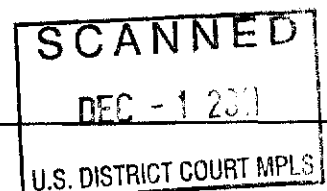
Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No


Sworn to before me, and subscribed in my presence,

30 Nov. 2011 3:10 PM
Date


Signature of Complainant
Jennifer Skwira
U.S. ICE

Minneapolis, MN
City and State



STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

AFFIDAVIT OF Jennifer Skwira

Jennifer Skwira, being duly sworn, deposes and states as follows:

1. I am a Deportation Officer with Immigration and Customs Enforcement (ICE) within the Department of Homeland Security since September 2, 2007. I have been in various positions within legacy Immigration and Naturalization Service (INS) and the United States Citizenship and Immigration Services (USCIS) for the last 13 years.
2. As a Deportation Officer, my duties and responsibilities include overseeing the removal proceedings of aliens. I am also responsible for reviewing alien files (commonly known as "A files") in connection with the detention and release of aliens in ICE custody.
3. This Affidavit is based on my training, experience, personal knowledge, discussions with other law enforcement officers and agents directly involved in this investigation, and my review of official reports and documents related to this investigation.
4. This Affidavit is made for the purpose of establishing probable cause in support of a federal arrest warrant, and therefore contains only a summary of relevant facts. Based upon all the facts and information set forth in this Affidavit, I believe that probable cause exists to support that, on or about July 16, 2008, in Mower County, in the State and District of Minnesota, Roman Ernesto LUNA-Almaraz (Defendant) was found in the United States after having previously, unlawfully reentered after having been previously removed, without first having obtained the consent of the Attorney General or his successor, the Secretary of Homeland Security, to re-apply for admission to the United States, and that Defendant's removal was subsequent to a

conviction for commission of an aggravated felony, in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2) and Title 6, United States Code, Sections 202 and 557.


5. On or about July 16, 2008, Defendant was encountered in Mower County, Minnesota and was arrested for Felon in Possession of a Firearm, Assault in the Second Degree-Dangerous Weapon and Aggravated Forgery. On December 19, 2008, Defendant was convicted of Felon in Possession of a Firearm in violation of M.S. 609.165 Subd.1b(a). Defendant was committed to the Commissioner of Corrections for a term of 60 months.
6. On or about July 9, 2009, Defendant was encountered by the ICE Enforcement and Removal Operations (St. Paul Field Office) Institutional Hearing Program team at the Minnesota Correctional Facility in St. Cloud, MN. Defendant was interviewed as to alienage and admitted his true identity as specified above and stated he is a citizen of Mexico. Defendant stated he last entered the United States in September of 2007, at or near Brownsville, Texas, without inspection. Further ICE and criminal database queries indicated that Defendant had been previously deported.
7. On July 9, 2009, the Defendant was advised of his Miranda Rights. The Defendant voluntarily provided a sworn statement wherein he admitted his identity as a citizen of Mexico with no legal authorization to enter, pass through, or remain in the United States. Defendant admitted to having been previously deported and later reentering the United States near Brownsville, TX. Defendant admitted that he did not seek permission from the Attorney General or the Secretary of the Department of

Homeland Security to apply for admission to the United States.

8. Defendant was released to ICE custody on November 15, 2011 after serving his MN state sentence, and was transported to the DHS/ICE facility in Bloomington, MN for processing. At the DHS/ICE facility Defendant's fingerprints were rolled, scanned and electronically submitted into the Department of Homeland Security's Automated Biometric Identification System (IDENT) and the Federal Bureau of Investigations Integrated Automated Fingerprint Identification System (IAFIS). IDENT and IAFIS positively matched and linked Defendant's fingerprints to alien registration number A043 772 585, Federal Bureau of Investigations number 487225TA9 and DHS Fingerprint Identification number (FIN) 1033724, revealing Defendant's previous removal and criminal history.
9. Based on IAFIS and IDENT identification of Defendant's prior history, Deportation Officer (DO) Angela Minner reviewed Defendant's unique alien registration file A043 772 585. Defendant's alien registration file contains photographs, fingerprints and immigration documents identifying Defendant as a citizen and national of Mexico, who has been ordered removed and physically removed from the United States to Mexico on three (3) prior occasions prior to being found in the District of Minnesota in 2008.
10. On December 18, 2008, Defendant was convicted in Mower County District Court, Minneapolis, Minnesota for Felon Convicted of Crime of Violence—Firearm Violation, in violation of MN Statute 609.165(1b)(a), and sentenced to 60 months.

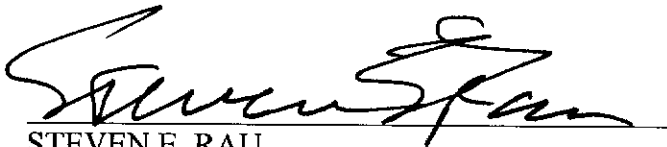
11. On April 10, 1997, Defendant was convicted in the Freeborn County District Court at Albert Lea, MN of the offense of a Controlled Substance Crime in the 1st Degree (Aiding and Abetting the Sale of Cocaine) in violation of MN Statute 152.021(1)(1), and sentenced to 86 months with a stay of execution and 10 years' probation.
12. The above listed convictions of the Defendant have been classified by the FBI Criminal Justice Information System as FBI# 487225TA9. Upon the arrest of the defendant by ICE, he was searched and enrolled into the Automated Integrated Fingerprint Identification System (IAFIS). Results of the IAFIS search and enrollment revealed the identical FBI# 487225TA9 related to the Defendant's criminal history and the defendants administrative immigration File #A043 772 585, thereby establishing a match of identity utilizing fingerprint records.
13. Defendant's immigration file indicates that he has been previously arrested and removed from the United States on three (3) occasions. On June 20, 1997 from the last port of departure from the United States to Mexico at El Paso, Texas. On February 25, 1999 from the last port of departure from the United States to Mexico at Laredo, Texas. On April 27, 2004 from the last port of departure from the United States to Mexico at Laredo, Texas.
14. The Defendant is subject to removal as an alien that re-entered the U.S. without permission by the Attorney General or Secretary of Homeland Security as defined in INA Section 241(a)(5) codified under 8 USC1231(a)(5). The Defendant is currently detained in ICE custody as mandatory detention per INA Section 241(a)(2) codified under 8 USC 1231(a)(2) due to his illegal re-entry to the United States.

15. Defendant is a citizen and national of Mexico with no claim to United States Citizenship or Lawful Permanent Resident status, nor does he have documents to enter, pass through, or remain in the United States. Defendant claims entry illegally to the United States in September of 2007 at or near Brownsville, Texas.
16. My investigation confirms that Defendant has been removed from the United States; Defendant has not applied for, nor received, permission to enter the United States from the Attorney General, his successor, the Secretary of Homeland Security, or any other designated and authorized representative.
17. Based on these facts, Defendant is in violation of 8 U.S.C. Section 1326(a) & (b)(2), Re-entry after removal, in that Defendant was ordered removed, subsequently removed, and then found in the United States without consent of the Attorney General, or the Secretary of the Department of Homeland Security following the conviction of an aggravated felony.
18. Further Your Affiant Sayeth Not.


Jennifer Skwira, Deportation Officer
Immigration and Customs Enforcement

SUBSCRIBED and SWORN to Before Me

This 30th of November, 2011.


STEVEN E. RAU
United States Magistrate Judge